

BEVERLY SHORES BOARD OF ZONING APPEALS

Checklist

_____ Petition complete with material required by Section 152.03 of the Zoning Ordinance, including an accurate scale drawing showing the dimensions of the property and building (including any proposed improvements) and yard spaces, except as such requirements have been waived by the Board of Zoning Appeals.

_____ Petition includes a scale plat showing ownership of all properties within 300 feet of the perimeter of subject property identifying the property owners and providing a list of their addresses as shown in Porter County tax records.

_____ Complete application and \$500 submitted to Secretary of BZA c/o Town Clerk..

_____ Notice of public hearing published then (10) days before the hearing in the Chesterton Tribune, and posted in the Beverly Shores Town Hall and the Beverly Shores Post Office as evidenced by properly completed Proof of Publication and proof that publication costs have been paid.

_____ Verification by certified mail receipts that the property owners within 300 feet have been notified. Return Receipt Requested.

_____ Public hearing held.

_____ Official action taken by the Board, including findings of facts.

Applicant should submit this form, fully completed, together with nine (9) copies and the application fee of \$500 to the Secretary of the BZA, Town Hall, P.O. Box 38, Beverly Shores, IN 46301. Failure to fully complete this form or to pay the fee will be a basis for the BZA refusing to proceed on this Application. Applicant is advised to thoroughly review the BY-Laws of the BZA and to attach to this Application that said By-Laws require to be submitted with this Application plus any information the Applicant believes would be helpful to the BZA in this matter.

BOARD OF ZONING APPEALS OF THE TOWN OF BEVERLY SHORES, INDIANA

APPLICATION FOR REVIEW AND DETERMINATION BY THE BZA

APPLICANT: Name: _____ Tel. No. _____

Address: _____

OWNER: Name: _____ Tel. No. _____

Address: _____

PROPERTY: Legal Description: _____

Common Address: _____

Date Acquired by Owner: _____ Current Zoning: _____

Current Use: _____ Proposed Use: _____

TYPE OF REVIEW OR DETERMINATION REQUESTED: (Check One-Only one type of relief per Application)

Appeal of Determination of Town Official or Agency Variance Special Exception
 Special Use Contingent Use Conditional Use

ISSUE(S) INVOLVED IN REVIEW/APPEAL: _____

Determination Appealed From: _____

Zoning Code Section(s) involved: _____

Condition Not Conforming to Code: _____

Brief Narrative of History of Matter: _____

Relief Requested: _____

Reasons/Facts Supporting Granting of Relief: _____

SIGNATURES: _____

Applicant

Owner

Town Official Accepting Application and Fee

Date Application and Fee Received

NOTE: Applicant should submit this form, fully completed, together with nine (9) copies and the application fee of \$500 to the Secretary of the BZA, Town Hall, P.O. Box 38, Beverly Shores, IN 46301. Failure to fully complete this form or to pay the fee will be a basis for the BZA refusing to proceed on this Application. Applicant is advised to thoroughly review the BY-Laws of the BZA and to attach to this Application that said By-Laws require to be submitted with this Application plus any information the Applicant believes would be helpful to the BZA in this matter.

(FOR BZA USE ONLY)

Board Action: Approved _____ Rejected _____ Deferred _____ Date _____

BZA Secretary

BZA President

**BOARD OF ZONING APPEALS
TOWN OF BEVERLY SHORES, INDIANA
BY-LAWS**

**ADOPTED AUGUST 20, 1981
REVISED JANUARY 19, 1983
REVISED APRIL 11, 1983
REVISED JANUARY 20, 1986
REVISED MAY 23, 2009
REVISED JANUARY 14, 2010**

ARTICLE I

MEETINGS

1. The meetings of the Beverly Shores Board of Zoning Appeals (here-in-after referred to as BZA) shall be held as scheduled by the Board from time to time, except for the first meeting of the year, which shall be held sometime in January for the purpose of reorganization.
2. Special meetings of the BZA may be called by the Chairperson on their own initiative or upon request of two (2) members to the Chairperson. The Chairperson shall provide all members at least two (2) days in advance of a special meeting, notice fixing the time, place and purpose of the meeting. Said notice is not required if the time of a special meeting has been fixed in a regular meeting, or if all members are present at the meeting. Notice must be given to the newspaper and posted at least (48) hours before a special meeting.
3. A quorum consists of a majority of the entire membership of the BZA. No action of the BZA is official unless authorized by a majority of the entire membership of the BZA at a regular meeting or properly called special meeting.
4. Decisions of the BZA shall be by voice vote of the members. Any member shall disqualify themselves or be disqualified from voting, by a majority of the entire membership of the BZA upon determination that the member has a direct or indirect financial interest in the case under consideration. Upon disqualification, the appointing authority shall appoint an alternate to participate as a member in the hearing or decision concerning that zoning matter.
5. The Secretary of the BZA shall keep the minutes of all proceedings and shall record the vote on all action taken, which shall be presented to the BZA for approval at the next regular meeting. When approved, the minutes shall be ATTESTED by the Secretary and SIGNED by the Chairperson. A copy shall be kept on file for public inspection at the Administration Building.
6. All meetings at which official action is taken shall be open to the general public.

BOARD OF ZONING APPEALS - BY-LAWS

ARTICLE II

OFFICERS AND EMPLOYEES

1. The officers of the BZA shall consist of a Chairperson and Vice-Chairperson.
2. The Chairperson shall preside at all meetings and hearings of the BZA and shall have the duties normally performed by such an officer. They shall have the privilege of discussing all matters before the BZA and of voting thereon.
3. The Vice-Chairperson shall have the authority to act as Chairperson of the BZA during the absence, disability or resignation of the Chairperson.
4. At the first meeting in January the BZA shall elect its officers from among its members by majority vote of the entire membership of the BZA. Such officers shall serve for a one (1) year term.
5. Vacancies in officers shall be filled promptly by majority vote of the membership of the BZA.
6. The BZA may employ a secretary and such persons as are necessary for discharge of the duties and responsibilities of the BZA and make contracts for special or temporary services and any professional counsel. The secretary shall keep the minutes and records of the BZA in a secure cabinet in the Town Hall. Appointments shall be made by a majority vote of the BZA members. Compensation for such employees shall be fixed by BZA. Total annual expenses for services and counsel shall not exceed funds available for that purpose.

ARTICLE III

HEARINGS

1. The BZA shall hear and determine appeals from and review any order, requirement, decision or determination made by an administrative official, committee or board charged with the enforcement of a zoning ordinance.
2. A petitioner who wishes to appeal an order, requirement, decision or determination shall file an APPLICATION FOR HEARING ON APPEAL in the form prescribed by the BZA, by depositing said application and any required or otherwise pertinent documents in the UNITED STATES POSTAL SERVICE, postage pre-paid, addressed to the CHAIRPERSON OF THE BZA, c/o TOWN OF BEVERLY SHORES, PO BOX 38, BEVERLY SHORES, IN 46301-0038. The postmark date shall be presumptive evidence of the date of filing. A separate application must be filed out for each type of relief being requested even if they concern the same property and the same project.

BOARD OF ZONING APPEALS - BY-LAWS

3. The Chairperson shall accept an appeal only when the administrative official, committee or board charged with the enforcement of the zoning ordinance:

(1). Has received a written application, rejected said application in writing, and the applicant has appended said rejection with the APPLICATION FOR HEARING APPEAL; or,

(2). Has issued a written statement citing the property owner for a violation of the zoning ordinance and a copy of said citation has be appended to the APPLICATION FOR HEARING APPEAL; or,

(3). Has determined the requested relief may not be granted without a variance or special exception and a copy of said determination has been appended to the APPLICATION FOR HEARING APPEAL.

4. Application for hearing on appeal shall be filed with the Chairperson of the BZA within thirty (30) days of issuance of written rejection, citation or determination by an administrative official, committee or board charged with the enforcement of the zoning ordinance.

5. All appeals shall be accompanied by a FILING FEE OF FIVE HUNDRED DOLLARS (\$500.00) to help defray the administrative costs of the BZA. Shall be filed with the Clerk Treasurer at least five (5) business days before the next meeting in order to get on the agenda.

6. The Chairperson shall call a preliminary meeting of the BZA no later than twenty (25) days from the date an appeal is filed for the purpose of determining the sufficiency of the application and to set a date for the public hearing. At the preliminary meeting if the BZA finds, upon review of the information submitted by the applicant or upon its own investigation at the preliminary meeting, that the application is in good order with sufficient data, it shall set a time add place for public hearing. Cases shall come before the BZA in sequence of filing. The Chairperson shall give a written request to the administrative official, Committee or Board whose decision, rejection, citation, or determination is being appealed to provide the Board a certified copy of the documents, plans, papers, and any other evidence constituting the record of the action from which the appeal is taken at least 5 days before the date set for the public hearing.

7. Whenever a public hearing is required for any proceeding or permit requiring action by the BZA:

A. NOTICE THEREOF SHALL BE PUBLISHED IN ONE (1) NEWSPAPER of general circulation published in Porter County, Indiana circulated in the town.

(a) Such notices shall announce the DATE, TIME, AND PLACE OF THE HEARING.

(b) SHALL DECLARE THE NATURE AND PURPOSE OF THE

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PROCEEDING.

- (c) SHALL DESCRIBE THE PROPERTY OR PREMISES CONCERNED BOTH BY LEGAL AND GENERAL DESCRIPTION.
- (d) SHALL STATE WITH SUFFICIENT CLARITY THE AMENDMENT, PERMIT, APPROVAL OR RELIEF SOUGHT THROUGH THE PROCEEDINGS OF WHICH NOTICE IS GIVEN.

B. In addition to publication, a copy of such notice shall be posted in a conspicuous place at the Post Office, Town Hall and at the meeting place.

At the hearing an affidavit shall be filed by the person posting said notices stating the date and places of posting, and a publisher's affidavit shall be filed showing proof of publication. All of such notices are in lieu of there being no newspaper of general circulation published in the Town, and said notices shall be so published and posted at least ten (10) days prior to the date fixed for the public hearing.

8. In all appeals to the BZA, personal notice of such appeal shall be given to all adjoining property owners holding title to land within three hundred (300) feet of the property line of property involved. Notice shall be in the form prescribed by the BZA and shall be given by the applicant, mailing such notices by CERTIFIED MAIL RETURN RECEIPT REQUESTED to the last known address of the adjoining property owners to the address of the owner of the property as stated in the records of the Township Assessor or Porter County Auditor at least ten (10) days before the date of public hearing. The responsibility for fulfilling and paying for all posting, publication, and notice requirements shall be that of the applicant and the applicant shall provide the Chairman with the required documentation proving all said requirements were fulfilled.

The Chairperson shall file with the case a copy of such notices, together with the names and addresses of the persons notified.

9. In addition to those hearings required by law, the BZA may, at its discretion, hold additional public hearings when it decides that such hearings will be in the public interest.

10. When an appeal has been filed with the BZA, proceedings and work on the premises affected shall be stayed unless the administrative official, committee or board rendering the decision appealed from certifies to the BZA that, by reason of the fact stated in the certificate, a stay would cause an imminent peril to life or property. In that case, proceedings or work may not be stayed except by a restraining order.

Upon application, after notice to the administrative official, committee or board rendering the decision appealed from, and to the owner of the premises affected after due cause is shown, the Town BZA or Circuit or Superior court of the County in which the affected premises are located, may grant the restraining order.

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ARTICLE IV

CONDUCT OF HEARING

- 1) At a public hearing before the BZA:
 - (1). The applicant shall first present the facts and arguments in support of the case.
 - (2). Those who oppose the applicant shall follow.
 - (3). After which applicant will have five (5) minutes for rebuttal.

To maintain orderly procedure, each side shall proceed without interruption by the other. Each speaker shall address the chair and be recognized before speaking.

2. In the presentation of a case, the burden shall be upon the petitioner to supply all information, including charts, plats, diagrams and other exhibits necessary for a clear understanding of the problem. The BZA may continue the hearing, when in its judgment, the petitioner has not provided sufficient evidence and information on which to make a determination.

3. Every person appearing before the BZA will abide by the order and directions of the Chairperson. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the BZA and will be dealt with as the Chairperson directs.

4. The BZA, at its discretion, may continue or postpone the hearing of any case upon an affirmative vote of a majority of the members present.

5. The BZA shall:

(1). Authorize special exceptions to the district regulations only in the classes of cases or in particular situations as specified in the Zoning Ordinance; and,

(2). Authorize on appeal in specific cases such variances from the terms of the Zoning Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the Zoning Ordinance will result in unnecessary hardship, and so that the spirit of the Zoning Ordinance shall be observed and substantial justice done.

Authorization of any variance from the terms of the Zoning Ordinance may only be made upon the BZA making all of the determinations required by IC 36-7-4-918.5 and Sections 540 through 542 of the Zoning Ordinance, in writing.

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ARTICLE V

FINAL DISPOSITION OF CASE

1. The final disposition of any case shall be in the form of an order setting forth the findings and determination of the BZA together with any modifications, specifications, restrictions, conditions, or limitations which the BZA determines are appropriate under the circumstances of the case.
2. The BZA may dismiss a case for want of prosecution or lack of jurisdiction. When a applicant has failed to appear at two (2) consecutive meetings for which it was announced at the previous meeting that the case would be on the agenda. The case may be dismissed for want of prosecution.
3. A applicant may not withdraw a case after a roll call vote has been ordered by the Chairperson.
4. A case which has been withdrawn by the applicant shall not again be considered by the BZA within a period of three (3) months after the date of the withdrawal.
5. A case which has been decided adversely to the applicant shall not be reconsidered by the Board except upon the presentation of new evidence.
6. The Chairperson of the Board shall notify the applicant; the administrative official, Committee, or Board rendering the decision that was appealed; and the Building Commissioner of its determination by providing them a copy of the written decision.

ARTICLE VI

AMENDMENTS

1. These By Laws may be suspended or amended by a four-fifths (4/5) vote of the entire membership of the BZA.
2. Upon amendment of the By Laws, complete new By Laws shall be distributed to all BZA members, the Board Attorney, Secretary and Town Clerk and shall be available for review by the public, including any applicant, in the office of the Town Clerk. The Clerk shall provide copies to anyone upon their request upon the payment of \$2.00. Reasonable steps shall be taken to make the By-Laws accessible on the Town's website.

Chairman: _____

Attest: Secretary _____

BEVERLY SHORES BOARD OF ZONING APPEALS

DEVELOPMENT STANDARD VARIANCE

FINDINGS AND DECISION

No. _____

The Application of:
Variance Requested:

Legal Description:
Date Public Hearing Held:
Date Public Hearing Closed:

We, the Members of the Beverly Shores BZA Now Find:

1. That the DEVELOPMENT STANDARD VARIANCE requested WILL _____ WILL NOT _____ be injurious to the public health, safety, morals, and general welfare because of the facts shown as follows:

2. That the use and value of the area adjacent to the property included in the variance WILL _____ WILL NOT _____ be affected in a substantially adverse manner BECAUSE of the fact shown as follows:

3. The strict application of the zoning ordinance WILL _____ WILL NOT _____ result in practical difficulties in the use of the property for which the variance is sought BECAUSE of the fact shown as follows:

THE BOARD NOW GRANTS _____ REJECTS _____ this above requested DEVELOPMENT STANDARD VARIANCE:

And further decides the following conditions shall be imposed:

DATE _____

BOARD OF ZONING APPEALS:

_____	YES ____	NO ____
_____	YES ____	NO ____
_____	YES ____	NO ____
_____	YES ____	NO ____
_____	YES ____	NO ____

**FORM LETTER FOR NOTIFICATION OF ADJOINING PROPERTY OWNERS
OF PENDING APPEAL BEFORE BOARD OF ZONING APPEALS**

Date:

Dear Beverly Shores Property Owner:

According to the records maintained by the Porter County Tax Assessor's Office, you are a property owner located within 300 feet of the following described real estate owned by

(Give legal description of land area and commonly-known address
for which application for public hearing has been made)

This letter is to inform you that a public hearing will be held for (Give nature of request)

In accordance with the Beverly Shores Zoning Ordinance. The hearing will be held on (Date) _____ at (Time) _____ in the Beverly Shores Administration Building, 500 South Broadway. You are entitled to attend this hearing and express your views on the request or you may send your written comments on the request addressed to:

Secretary
Board of Zoning Appeals
c/o Town of Beverly Shores
P.O. Box 38
Beverly Shores, IN 46301

Very truly yours

(Certified Mail Return Receipt Requested)

Note: Applicant must send the above letter to all property owners located within 300 feet of the property for which the relief request is being made.

Applicant must provide the Secretary of the Board of Zoning Appeals of the Town of Beverly Shores, Indiana, with proof of notification and a list of property owners so notified, no less than (5) days prior to the public hearing.

**NOTICE OF PUBLIC HEARING FOR A VARIANCE
UNDER THE BEVERLY SHORES ZONING ORDINANCE, AS AMENDED**

NOTICE IS HEREBY GIVEN that the Board of Zoning Appeals of the Town of Beverly Shores, Indiana, on the _____ day of _____ 20____, at _____ o'clock P.M., local time, in the Town Administration Building, located at 500 South Broadway, Beverly Shores, Indiana, will hold a Public Hearing on a Petition for a Variance pursuant to Section ___ of Zoning Ordinance # 84-29 AKA # 208, as amended, for the Town of Beverly Shores, Indiana by

Beverly Shores, Indiana 46301.

The nature of the Variance is _____
contrary to Section ___ Subsection _____ of the Zoning Ordinance of Beverly Shores.
The real estate is located at _____ and
is more fully described as: _____, lots
_____ through _____ (inclusive), in Block ___ Unit ___.

A copy of the proposed variance is on file at the Town Administration Building, 500 South Broadway, Beverly Shores, Indiana, for public examination.

Interested persons desiring to present their views upon the proposed variance in writing or verbally will be heard at the above-mentioned Time and Place.

Said meeting will be continued from time to time as may be necessary.

Written suggestions or objections to this Variance may be filed with the Secretary at or before such meeting and will be heard by the Board of Zoning Appeals at the Time and Place specified.

Applicant

Applicant

Note to Publisher: Publish once on _____, 20____, at the expense of the petitioner who is expected to bring a paid receipt to the Public Hearing. Proof of publication should be mailed to the Secretary of the Beverly Shores Board of Zoning Appeals, P.O. Box 38, Beverly Shores, IN, 46301.

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

PROOF OF POSTING

_____, being first duly sworn, deposes
and says:

1. That the Affiant caused the posting of one (1) copy of the
legal notice which is labeled Exhibit "A" and attached hereto, in
the following public places in the Town of Beverly Shores, Indiana, to-wit:

- a. The Town Hall Building located on
Broadway at Service Avenue in
Beverly Shores, Indiana, and
- b. The Beverly Shores Post Office
located at 4942 West Dunes Highway,
Beverly Shores.

2. That said copies of said Legal Notice were duly posted on
or before the _____ day of _____, 20__.

FURTHER AFFIANT SAYETH NOT

Printed Signature

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

BEFORE ME, a Notary Public in and for said County and State,
personally appeared the above affiant and acknowledge the execution
of the foregoing Proof of Posting this _____ day of _____, 20__.

Printed Signature, Notary Public

My Commission Expires: _____ A resident of _____ County, IN

SECTION 571 CONTENTS OF APPLICATION FOR BUILDING PERMIT

The application for Building Permit shall be made on a form prescribed by the Plan Commission and signed by the owner(s) attesting to the accuracy of the information supplied by the application. The following information is required:

- A. Name(s), address(s) and phone number(s) of legal owner(s) of property.
- B. Legal description of property.
- C. Copy of recorded Deed for property.
- D. Zoning District and description of existing and/or proposed use.
- E. Approved well and septic permits from the Porter County and State Boards of Health, if applicable, for the property showing exact location of the proposed facilities.
- F. Three sets of plans of all floors, foundation sections and elevations and detailed construction specifications describing the kind, size, quality and grade of materials and service equipment and clearly indicating the height of the proposed improvements. These plans and specifications shall be prepared under the supervision and direction of an architect or an engineer registered in Indiana, Illinois, Michigan, Ohio or Wisconsin and shall be certified for the specific building site.
- G. Approval in writing for the proposed construction work from:
 - 1. The Building Site Committee where applicable.
 - 2. The Fire Prevention and Building Safety Commission, in all cases of commercial and/or public buildings and additions and alterations thereto.
 - 3. The National Park Service in all cases where the property is located within the boundaries of the Indiana Dunes National Lakeshore, and has been acquired by the Department of the Interior.
 - 4. The Indiana State Highway Department or any other governmental jurisdiction, if applicable.

- H. All applicants for Building Permits shall be required to have a “Street Inventory” completed and signed by a representative of the Street Department. Such inventory shall record the condition of any streets abutting the property where the improvements are being made, as well as the condition of the streets that the applicant has designated for use by his contractors and material suppliers as hereinafter provided which inventory may be supplemented by appropriate photographs if deemed necessary by the Street Department representative.

Prior to securing the Street Inventory from a representative of the Street Department, the applicant shall complete that part of the Street Inventory form designating a route for material suppliers and contractors from the Town limits to the job site. All contractors and material suppliers shall thereafter use the designated route and if a contractor or material supplier operating a vehicle larger than a pickup truck or van is found to be deviating from the designated route both the contractor or material supplier and the applicant shall be jointly and severally liable for any damage done to Town streets and may be fined for a violation of this Ordinance as hereinafter provided.

NEWSPAPER PUBLICATION INFORMATION

Chesterton Tribune
P.O. Box 558
193 Calumet
Chesterton, IN 46304
Phone: (219) 926-1131
Fax: (219) 926-6389
E-mail: chestertontrib@earthlink.net

NOTICE-POSTING LOCATIONS

United States Post Office, Beverly Shores.

The outside Bulletin Board by the doors of the Administration Building.

BOARD OF ZONING APPEALS OF THE TOWN OF BEVERLY SHORES, INDIANA

APPLICATION FOR PERMIT TO BUILD WITHIN 25' OF A WETLAND

APPLICANT: Name: _____ Tel. No. _____

Address: _____

OWNER: Name: _____ Tel. No. _____

Address: _____

PROPERTY: Legal Description: _____

Common Address: _____

Date Acquired by Owner: _____ Current Zoning: _____

Current Use: _____ Proposed Use: _____

BASIS FOR REQUEST: Brief Narrative of History of Matter: _____

Relief Requested: _____

Reasons/Facts Supporting Granting of Permit: _____

SIGNATURES: _____
Applicant Owner

Town Official Accepting Application and Fee

Date Application and Fee Received

NOTE: Applicant should submit this form, fully completed, together with nine (9) copies and the application fee of \$500 to the Secretary of the BZA, Town Hall, P.O. Box 38, Beverly Shores, IN 46301. Failure to fully complete this form or to pay the fee will be a basis for the BZA refusing to proceed on this Application. Applicant is advised to thoroughly review the BY-Laws of the BZA and to attach to this Application that said By-Laws require to be submitted with this Application plus any information the Applicant believes would be helpful to the BZA in this matter.

(FOR BZA USE ONLY)

Board Action: Approved _____ Rejected _____ Deferred _____ Date _____

BZA Secretary

BZA President